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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,117	03/12/2004	Daniel P. Guyton	30011.24987	7081
78340	7590	08/24/2009	EXAMINER	
Emerson, Thomson & Bennett, LLC 777 W. Market Street Akron, OH 44303			ART UNIT	PAPER NUMBER

DATE MAILED: 08/24/2009

Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 10/799,117	Applicant(s) GUYTON ET AL.	
	Examiner JOSEPH F. EDELL	Art Unit 3636	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 08 September 2008 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.

EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

The summary of claimed subject matter fails to refer to the specification by page and line number as is required by 37 CFR 41.37(c). Reference to the pre-grant publication document associated with the application is not acceptable. The grounds of rejection to be reviewed on appeal fails to provide a concise statement of each ground of rejection present on review. An example of a proper concise statement is, "Claims 1-3 and 6-8 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,361,433 to Vanzant in view of U.S. Patent No. 6,113,188 to Stewart et al." The Evidence Appendix fails to provide a statement setting forth where in the record the evidence was entered in the record by the examiner. With respect to the status of amendments section, no amendment to the claims was filed on 07/16/07. The response of 07/16/07 consisted of arguments requesting reconsideration of the rejections of the final Office Action of 05/14/07. Correction to this section should set forth this distinction.

/Joseph F Edell/
Primary Examiner, Art Unit 3636